

# Notice of Allowability

Application No.

10/084,777

Examiner

Freda A. Nelson

Applicant(s)

EGLIN ET AL.

Art Unit

3639

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed February 17, 2006.
2. ☒ The allowed claim(s) is/are 9,10,12-14,19,21-40,42,63,64,68,69,71,110-115,134-151 and 156.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

***Response to Amendment***

The amendment received on February 17, 2006 is acknowledged and entered. Claims 9-10, 12-13, 19, 24-31, 63, 68-69, 71, 138-140, 142, 147-151, and 156 have been amended. Claims 1-8, 11, 15-18, 20, 41, 43-62, 65-67, 70, 72-109, 116-133, 152-155, and 157-185 have been canceled. No claims have been added. Claims 9-10, 12-14, 19, 21-40, 42, 63-64, 68-69, 71, 110-115, 134-151 and 156 are currently pending.

***Rejections - 35 USC § 101***

The rejections under 35 USC 112 and 35 USC 103 have been withdrawn due to applicant's amendment.

***Allowable Subject Matter***

Claims 9-10, 12-14, 19, 21-40, 42, 63-64, 68-69, 71, 110-115, 134-151 and 156 are allowed.

The following is an examiner's statement of reasons for allowance:

1. As per independent claim 9, the prior art of record, specifically Walker et al. (Patent Number 6,658,390) do not disclose or fairly teach:

(i) determining if a profit at the first price is at least equal to a best profit for one or more previous price levels for the item with the processor and increasing the first price to the second price if the profit at the first price is at least equal to the best profit

Art Unit: 3639

for the one or more previous price levels for the item, wherein the second price is greater than the first price; and

(ii) determining if a profit at the first price is less than the best profit for the one or more previous price levels for the item with the processor and reducing the first price to the second price if the profit at the first price is less than the best profit for the one or more previous price levels, wherein the second price is less than the first price.

2. As per independent claim 13, the prior art of record, specifically Walker et al. (Patent Number 6,658,390) do not disclose or fairly teach:

determining profit at the first price is less than a best profit for the previous price levels with the processor;

determining a difference between a best price at which the best profit for the previous price levels was obtained and the first price is less than a minimum limit; and

setting the second price to a randomly adjusted price within a range about the best price.

3. As per independent claim 19, the prior art of record, specifically Walker et al. (Patent Number 6,658,390), in view of Van Luchene et al. (Patent Number 6,687,679). do not disclose or fairly teach:

(i) determining if the time between the one or more orders at the first price and the one or more second orders at the second price is less than the average time between the number of previous orders and increasing the first price to the second price

Art Unit: 3639

if the time between the one or more orders at the first price and the one or more second orders at the second price is less than the average time between the number of previous orders, wherein the second price is greater than the first price; and

(ii) determining if the time between the one or more orders at the first price and the one or more second orders at the second price is greater than the average time between the number of previous orders and decreasing the first price to the second price if the time between the one or more orders at the first price and the one or more second orders at the second price is greater than the average time between the number of previous orders, wherein the second price is less than the first price.

4. As per independent claim 63, the prior art of record, specifically White (Patent Number 6,644,547) in view of Phillips et al. (US PG Pub. 2002/01 6348) do not disclose or fairly teach:

wherein said processor is operable to increase the pricing of the item when profit at a current price for the item is at least greater than a previous best profit for the item;

wherein said processor is operable to increase the pricing of the item when the profit at the current price is at least equal to the previous best profit for the item; and

wherein said processor is operable to increase the pricing of the item by a random percentage above the current price.

Art Unit: 3639

5. As per independent claim 68, the prior art of record, specifically White (Patent Number 6,644,547) in view of Phillips et al. (US PG Pub. 2002/0116348) do not disclose or fairly teach:

wherein said processor is operable to decrease the pricing of the item when profit at a current price for the item is less than a previous best profit at a previous best price for the item; and

wherein said processor is operable to decrease the pricing of the item to halfway between the current price and the best price.

6. As per independent claim 69, specifically White (Patent Number 6,644,547) in view of Phillips et al. (US PG Pub. 2002/0116348) do not disclose or fairly teach:

wherein said processor is operable to randomly adjust the pricing of the item within a specified range around a best price at which a best profit for the item was previously obtained when there is a predetermined price difference between the current price and the best price.

7. The NPL prior art of record, specifically, "9<sup>th</sup> International World Wide Web Conference, THE WEB: THE NEXT GENERATION", "Ticketmaster Online-Citysearch, Seattle Mariners and @TheMoment Partner to Let Consumers Set Their Price for Tickets", in view of "Ecwebworks and Bid.com form Strategic Alliance" while disclosing a dynamically adjusting the price of an item being sold over the Internet based on the demand for the fails to disclose or fairly teach:

dynamically adjusting a price by:

(i) determining if a profit at the first price is at least equal to a best profit for one or more previous price levels for the item with the processor and increasing the first price to the second price if the profit at the first price is at least equal to the best profit for the one or more previous price levels for the item, wherein the second price is greater than the first price; and

(ii) determining if a profit at the first price is less than the best profit for the one or more previous price levels for the item with the processor and reducing the first price to the second price if the profit at the first price is less than the best profit for the one or more previous price levels, wherein the second price is less than the first price.

8. The foreign prior art of record, specifically, JP 10149388, while disclosing a commodity charging method and recording medium recording program used for the charging method, fails to disclose or fairly teach:

(i) determining if a profit at the first price is at least equal to a best profit for one or more previous price levels for the item with the processor and increasing the first price to the second price if the profit at the first price is at least equal to the best profit for the one or more previous price levels for the item, wherein the second price is greater than the first price; and

(ii) determining if a profit at the first price is less than the best profit for the one or more previous price levels for the item with the processor and reducing the first price to

the second price if the profit at the first price is less than the best profit for the one or more previous price levels, wherein the second price is less than the first price.

9. The remaining dependent claims are considered allowable, as they are dependent and based off of an allowable independent claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

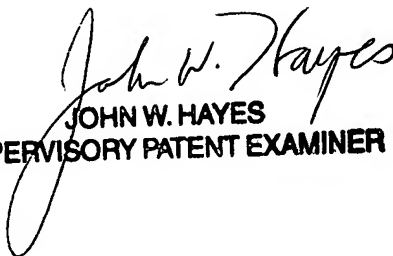
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3639

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FAN 03/08/2006

A handwritten signature in black ink, appearing to read "Fred Nelson".A handwritten signature in black ink, appearing to read "John W. Hayes".  
**JOHN W. HAYES**  
**SUPERVISORY PATENT EXAMINER**